

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

LeRoy Koppendraye
Marshall Johnson
Ken Nickolai
Thomas Pugh
Phyllis A. Reha

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of the Application for a
Certificate of Need for the Appleton-Canby
115kV High Voltage Transmission Line

ISSUE DATE: September 28, 2006

DOCKET NO. E-017/CN-06-677

ORDER ACCEPTING FILING AS
SUBSTANTIALLY COMPLETE,
REQUIRING ADDITIONAL INFORMATION,
AND ADOPTING REVIEW PROCESS

PROCEDURAL HISTORY

On May 15, 2006, Otter Tail Power Company (OTP) filed a notice plan for this project and a petition for exemption for certain filing requirements.

On August 1, 2006, the Commission issued its Order Granting Exemption and Approving a Notice Plan as Modified.

On September 8, 2006, OTP filed an application for a certificate of need.

On September 13, 2006, 2006, the Department of Commerce (the Department) filed comments on the completeness of the application and on the appropriate administrative review process that should be used to consider the application. The Department also filed comments on OTP's route permit application, which is being considered contemporaneously in Docket No. E-017/TL-06-1265.

The Commission met on September 21, 2006, to consider the matter.

FINDINGS AND CONCLUSIONS

I. OTP's Request for A Certificate of Need

OTP is requesting a certificate of need for a transmission facility consisting of:

- a new 42-mile 115 kV transmission line that would run between Appleton, Minnesota and Canby, Minnesota; and

- modification of the Appleton, Canby, Dawson and Louisburg substations to accommodate the new line.

OTP's proposed transmission facility is a "large energy facility" as defined in Minn. Stat. § 216B.2421, subd. 2(2) and requires, therefore, a certificate of need from the Commission prior to construction.¹

II. Department Comments and Recommendation

A. Review of the Completeness of OTP's Application

The Department commented on the completeness of the application and the appropriate review process that should be used to develop the record and consider the merits of the petition.

Regarding the completeness issue, the Department identified the following things missing:

- the effects of the facility in inducing future development - Minn. Rules, Part 7849.0240, subp. 2C;
- the major assumptions made in providing the information in Minn. Rules, Part 7849.0260 C(1) to C (6) - Minn. Rules, Part 7849.0260, subp. C7;
- the number of customers for all customer classes combined - Minn. Rules, Part 7849.0270, subp. 2B;
- the estimated annual revenue requirement per kWh for the system in current dollars - Minn. Rules, Part 7849.0270, subp. 2E;
- a plot of the difference between the adjusted net capability and actual, planned, or estimated maintenance outages of generation and transmission facilities - Minn. Rules, Part 7849.0280 H;
- the anticipated consequences to the power pool should the proposed facility be delayed one, two, or three years - Minn. Rules, Part 7849.0300;
- the estimated work force required for construction of the proposed facility - Minn. Rules, Part 7849.0300 F;
- a description of the changes in several resource requirements due to the no-build alternative - Minn. Rules, Part 7849.0340 B; and
- measures that would reduce the impact of the no-build alternative - Minn. Rules, Part 7849.0340C.

The Department recommended that the Commission find OTP's petition complete upon the submission of the additional data.

¹ See Minn. Stat. § 216B.243, subd. 2.

B. Recommended Process for Review of the Merits

To review the merits of OTP's request for a certificate of need, the Department and OTP agreed that it was appropriate to use an approach similar to that recently used for Great River Energy in Docket No. ET2/CN-06-367.² In that docket, the Commission combined the certificate of need's environmental document with the environmental assessment associated with the route application, and combined the public hearings on the certificate of need with those required under the route permitting process.

As in the GRE docket, OTP has submitted a request for a route permit for the facility in question, a request being processed in Docket No. E-017/TL-06-1265. The Department recommended that a similar approach be utilized in this docket.

Finally, the Department proposed that the Commission develop the record in this matter using a comment and reply comment process similar to that used for miscellaneous filings filed with the Commission or uncontested certification requests in the Biennial Transmission Projects Report. OTP concurred in this approach.

III. Commission Analysis and Action

A. Application Completeness

The Commission finds that OTP's application for a certificate of need is substantially complete. The Commission will, however, require OTP to provide certain additional information, as recommended by the Department and specified in Order Paragraph 1 of this Order.³

B. Combining Certain Elements

The Commission agrees that efficiencies can be achieved by combining certain elements that are common to this certificate of need proceeding and the route permit docket. Specifically, the Commission will combine, as it has done in previous cases, two elements. The Commission will combine 1) the environmental review of the certificate of need process with the environmental assessment of the routing proposal; and 2) the public hearings of the certificate of need process with those required under the route permit process.

² *In the Matter of the Request by Great River Energy for a Certificate of Need for a High Voltage Transmission Line from the Mud Lake Substation to the Wilson Lake Substation*, Docket No. ET2/CN-06-367 (September 7, 2006).

³ The parties agreed at the Commission hearing that information regarding the effects of the facility in inducing future developments had already been provided.

C. Process for Reviewing the Merits

In previous dockets involving requests for certificates of need, the Commission has considered it prudent to immediately refer those requests to the Office of Administrative Hearings for contested case treatment, regardless of the size, type, or level of controversy known at that time. The Commission has done so as a precaution, since the statutory timetable for reaching final decision is so tight and although an application may not appear controversial at the outset, complications may suddenly arise requiring a contested case proceeding. Precious time can be lost proceeding first as an uncontested case, only to learn later that controversial material facts require starting over as a contested case.

The Commission, however, finds reasonable in this matter the Department's recommended manner in which to determine the potential for contested facts to arise. The Commission finds that the Department has proposed an expeditious way to determine whether contested facts exist, and has proposed a schedule that minimizes the time lost in the event that contested facts do arise requiring a contested case proceeding. OTP has stated its general agreement with the Department's recommendation.

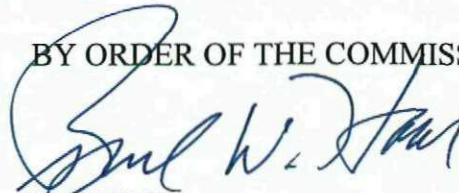
The Commission, therefore, will utilize the alternative certificate of need process recommended by the Department, with which OTP agrees. The Commission will defer the specifics of the proposed scheduling to the Commission's Executive Secretary.

ORDER

1. The Commission accepts the application as substantially complete, but directs Otter Tail Power to provide additional information identified by the Department, including:
 - the major assumptions made in providing the information;
 - the number of customers for all customer classes combined;
 - the estimated annual revenue requirement per kWh for the system in current dollars;
 - a plot of the difference between the adjusted net capability and actual, planned, or estimated maintenance outages of generation and transmission facilities;
 - the anticipated consequences to the power pool should the proposed facility be delayed one, two, or three years;
 - a description of the changes in several resource requirements due to the no-build alternative; and
 - measures that would reduce the impact of the no-build alternative.
2. The environmental review of the certificate of need process shall be combined with the environmental assessment of the routing proposal.

3. The public hearings of the certificate of need process shall be combined with those required under the route permitting process.
4. The review process shall begin with a comment and reply period. Scheduling authority for the review process is delegated to the Executive Secretary. If material contested facts are identified and any party requests a contested case proceeding by the date reply comments are due, the matter will be brought back to the Commission for expeditious referral to the Office of Administrative Hearings for a contested case proceeding.
5. An Administrative Law Judge will be asked to conduct the required public hearing(s) and will be asked to file a summary of those hearings with the Commission.
6. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION



Burl W. Haar
Executive Secretary

(SEAL)

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COUNTY OF RAMSEY)SS
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AFFIDAVIT OF SERVICE

I, Margie DeLaHunt, being first duly sworn, deposes and says:

That on the 28th day of September, 2006 she served the attached

ORDER ACCEPTING FILING AS SUBSTANTIALLY COMPLETE, REQUIRING ADDITIONAL INFORMATION, AND ADOPTING REVIEW PROCESS.

MNPUC Docket Number: E-017/CN-06-677

XX By depositing in the United States Mail at the City of St. Paul, a true and correct copy thereof, properly enveloped with postage prepaid

XX By personal service

XX By inter-office mail

to all persons at the addresses indicated below or on the attached list:

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Margie LeLattant

Subscribed and sworn to before me,

a notary public, this 28 day of

September, 2006

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